C.f.1001 — SINGLE BENCH

(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.No. 2736 /2006

PETITIONER

P.R. No. 2736/06 Presented by Shri D.C.L. Pandey dated 12/6/06

R.C. Verma
S/o Shri B.C.L. Verma
aged about 51 years
Lecturer (Maths) Govt. Higher Secondary School, Manpur
District Rajnandgaon (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh
   Through : Secretary
   Department of Tribal Welfare
   (S.C.S.T. & O.B.C. &Minority)
   Mantralaya D.K.S. Bhawan
   Raipur (C.G.)
2. Commissioner
   Tribal Welfare (S.C.S.T. &
   O.B.C. &Minority) Chhattisgarh
   Raipur (C.G.)
3. Assistant Commissioner
   Tribal Welfare Rajnandgaon
   District Rajnandgaron (C.G.)
4. Sub-Divisional Officer (Revenue)
   Mohla, District Rajnandgaon
   (C.G.)
5. Principal
   Government Higher Secondary
   School Manpur, District
   Rajnandgaon (C.G.)

RECEIVED-COPY
CLERK to A.G. BILASPUR
7/6/06

4/6/06

(4)

WRIT PETITION U/A 226/227 OF THE CONSTITUTION OF INDIA

AFR

5.2.07

(47)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2736 of 2006

Petitioner		R. C. Verma
	Versus	
Respondents		State of Chhattisgarh & others

ORDER

Post for 5-2-2007

Sd/-
Satish K. Agnihotri
Judge
3-2-2007

(148)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 2736 of 2006

Petitioner : R. C. Verma

Versus

Respondent : State of Chhattisgarh & others

Miss Deepali Pandey, Advocate for the petitioner.

Shri V. V. S. Moorthy, Deputy Advocate General with Smt. Anju Ahuja, Deputy Govt. Advocate for the respondents.

ORDER

(Passed on this 5th day of February, 2007)

1. By this petition, the petitioner has impugned the order dated 24.5.2006, whereunder the petitioner was placed under suspension in view of the allegations of remaining absent from the Gram Swaraj Abhiyan and further not taking interest in teaching activities.

2. The facts, in nutshell, are that the petitioner was working as Lecturer in Government Higher Secondary School, Manpur, district - Rajnandgaon. The Collector issued the order dated 16.4.2006 (Annexure R/1), stating therein that the State Government under the direction of the Chief Minister has decided to visit rural areas from 8th May, 2006 to 11th May 2006 and 15th May 2006 to 18th May 2006 under the Gram Swaraj Abhiyan. It was specifically stated in the order that all the officers/employees appointed for the purpose of the Gram Swaraj Abhiyan would adhere to the time schedule strictly. The petitioner was also directed vide order dated 19.4.2006

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(Annexure P/3) to attend the training to be held on 26.4.2006 in the Higher Secondary School, Manpur.

3. The petitioner participated in the training on 26.4.2006. On the same day the petitioner made an application to the Chief Executive Officer, Janpad Panchayat, Manpur (Annexure P/4) for leave to attend High Court of Chhattisgarh, Bilaspur in connection with the contempt case filed by his wife Smt. Manju Verma.

4. According to the respondents, in view of the ban on leave the permission for leave was refused. The petitioner despite refusal of leave failed to attend the office and proceeded on leave. The Sub Divisional Officer (Revenue), Mohla vide memo dated 19.5.2006 (Annexure R/2) informed to the Collector that the petitioner during training made an application for leave which was not granted to him. The petitioner was informed about the schedule of the Gram Swaraj Abhiyan by letter dated 10/11.5.2006 and the same was pasted on the house of the petitioner, as the petitioner left the office without permission of the competent officer. The said letter dated 10/11.5.2006 (Annexure P/5) was sent to the petitioner for attending the Gram Swaraj Abhiyan in block chowky/mohral/Manpur. The petitioner was assigned the duties at following places:-

8.5.2006	-	Salhehatti, Bagdogri,
9.5.2006	-	Gudaras, Gattepayli,
12.5.2006	-	Warkunji, Gattegahan,
13.5.2006	-	Dogargaon, Medhakhurd,
15.5.2006	-	Sarkheda Morchul,
16.5.2006	-	Bodegaon, Ghothiyakanhar,
17.5.2006	-	Palebhatthi, Halepayli.

The letter was further sent by registered post, also which according to the petitioner was received on 18.5.2006. On 17.5.2006 the

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concerned Minister visited Manpur. On that day the petitioner was not found there on duty and it was further complained by the residents of the area that the petitioner remains absent invariably and he does not take any interest in teaching also. The concerned Minister directed the Additional Commissioner, Scheduled Caste and Scheduled Tribe Welfare Department, Rajnandgaon to place the petitioner under suspension. Accordingly the impugned order dated 24.5.2006 (Annexure P/1) was passed.

5. Miss Deepali Pandey, learned counsel appearing for the petitioner impugned the suspension order on the ground that the order is malafide exercise of powers as wife of the petitioner Smt. Manju Verma has filed a contempt petition against the Assistant Commissioner, Tribal Welfare, Rajnandgaon. The order which was alleged to have not been complied with was received by the petitioner on 18.5.2006 and it was not possible for him to comply with the same. The petitioner has shown extraordinary results in the examination. The petitioner had made an application for leave, the same should have been granted which was not done and the petitioner could not be punished for the same. She lastly contended that the suspension order be quashed on the ground of non-availability of the material for alleged irregularity.

6. Shri V. V. S. Murthy, learned Deputy Advocate General with Smt. Anju Ahuja, Deputy Govt. Advocate, appearing for the respondents, per contra, submitted that the order dated 16.4.2006 (Annexure R/1), issued by the Collector, made it clear that the Gram Swaraj Abhiyan in rural areas was a programme of the government and no officer/employee would be granted any head quarter leave, without permission of the Collector. Leave was banned during that period.

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The petitioner, during his training on 24.6.2006, submitted an application for leave and without waiting for approval, left the head quarter without permission that amounts to serious misconduct. It was further contended that the leave was never granted to the petitioner. The schedule programme of the Gram Swaraj Abhiyan was communicated to the petitioner in time by pasting the same on the residence of the petitioner as the petitioner had left the headquarter without permission of the competent authority. A copy of the letter was sent by registered post also which was received later on and as such there was no occasion to serve the petitioner in person.

7. I have heard learned counsel or the parties and perused the records appended to the petition as well as the return.

8. On perusal of the documents appended to the pleadings, it is clear that the petitioner had left the headquarter without permission of the competent authority, when it was specifically stated in the order dated 16.4.2006 that the officers/employees who are assigned the responsibility of the Gram Swaraj Abhiyan would not leave the head quarter without permission of the Collector and further leave was banned during that period. On the point that the suspension order was passed on the malafide exercise of powers is without any material. The contempt application was filed by the wife of the petitioner against the Assistant Commissioner, Tribal Welfare. On perusal of the note-sheet (Annexure R/3) it appears that the petitioner was found absent from duty during the Gram Swaraj Abhiyan at Manpur on 17.5.2006, where the Minister concerned directed to suspend the petitioner and the same was approved by the Minister concerned as well as the Minister of the concerned

department. Thus, the allegation of the malafide is not proved being without any basis.

9. Service of the letter dated 10/11-5-2006 on 18.5.2006 on the petitioner is also without any basis. When an employee leaves headquarter during the ban period without permission of the competent authority, it is well settled that any order/notice/proceedings has to be pasted on the residence of the concerned officer/employee, particularly when the time is so short that the order cannot be served by registered post. In the present case, the petitioner very well knew about the Gram Swaraj Abhiyan in advance. He was further aware of the period of the Gram Swaraj Abhiyan i. e. to be held between 8.5.2006 to 11.5.2006 and 15.5.2006 to 18.5.2006. The petitioner also attended training and in the course of the training on 26.4.2006 he left the training after making an application without waiting for approval. Under these facts and circumstances, it is necessary to enquire into the alleged charged levelled against the petitioner by proper enquiry.

10. Learned counsel for the petitioner orally submits that the charges made thereafter be also quashed, without challenging the same by way of amendment of the petition or by filing substantive petition. The said ground cannot be considered. Even otherwise, the Supreme Court in the case of **Union of India and another v. Kunisetty Satyanarayana**[1] observed that ordinarily a writ petition should not be entertained against mere show cause notice or charge sheet, as at that stage the writ petition may be held to be premature.

11. It is well settled principle of law that the suspension is temporary and it does not involve punishment with evil consequences. Suspension means a temporary deprivation of the

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functions not amounting to any reduction of his rank or his status. The employee under suspension continues to be a Government Servant, he is not permitted to work keeping in view pendency of departmental enquiry to avoid undue influence in the proceedings of departmental enquiry and likely tampering with on records. At this stage is it not necessary to go into the charges levelled against the petitioner because it may prejudice the case of the parties in the pending departmental enquiry (see **Smt. Philomina Ekka Vs. State of C.G. & others**[2]).

12. I do not propose to examine the allegations made in the suspension order as the enquiry is already pending consideration. This order will not come in the way of enquiry, pending against the petitioner on merit. The enquiring authority may proceed with the enquiry uninfluenced by this order.

13. In view of the foregoing, the petition is dismissed. There shall be no order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1. { 2007 (1) SCJ 102 }[1]
2. { 2006 (2) C.G.L.J. 64}[2]

Thakur